

## REMARKS

Claims 1-49 remain in the application for further prosecution. Claims 1-11, 16-31, and 36-49 have been rejected. Claims 12-15 and 32-35 were indicated as including patentable subject matter.

### **I. 35 U.S.C. § 102 REJECTION**

Claims 1-4, 10, 11, 19, 20, 25, 26, 30, 31, 39, and 40 have been rejected under 35 U.S.C. 102(e) as being anticipated by Gerrard *et al.* (U.S. 2005/0055115 A1). Reconsideration and withdrawal of this rejection is requested.

The effective date of Gerrard *et al.* is September 9, 2003. The filing date of the present application was November 6, 2003, less than two months from the filing date of Gerrard *et al.*

Submitted herewith is a Rule 1.131 Declaration executed by the inventor, Alfred Thomas, and accompanying Exhibits A and B. It is respectfully submitted that the Rule 1.131 Declaration and accompanying Exhibits overcome the above-noted prior art rejection by proving invention of the claimed subject matter by applicant prior to the effective date of the Gerrard *et al.*

Accordingly, Gerrard *et al.* is an improper reference for application against the present claims. Reconsideration and withdrawal of this 35 U.S.C. § 102 rejection is respectfully requested.

### **II. 35 U.S.C. § 103 REJECTION**

Claims 5-9, 16-18, 21-29, 36-39, and 41-48 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Gerrard *et al.* (U.S. 2005/0055115 A1 in view of Champion *et al.* (US 6,659,464 B1).

As noted above, submitted herewith is a Rule 1.131 Declaration executed by the inventor, Alfred Thomas, and accompanying Exhibits A and B.

It is respectfully submitted that the Rule 1.131 Declaration and accompanying Exhibits overcome the above-noted prior art rejection by proving invention of the claimed subject matter by applicant prior to the effective date of the Gerrard *et al.* Gerrard *et al.* is, therefore, unable to be relied upon by the Examiner. The 35 U.S.C. § 103 rejection advanced by the Examiner, which relies upon Gerrard *et al.*, is respectfully submitted to be overcome.

Accordingly, reconsideration and withdrawal of this 35 U.S.C. § 102 rejection is respectfully requested.

### III. ALLOWABLE SUBJECT MATTER

Claims 12-15 and 32-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form. Applicant thanks the Examiner for the indication of allowability of claims 12-15 and 32-35. However, Applicant respectfully submits that the rejections advanced by the Examiner have been overcome for at least the reasons submitted herein and Applicant elects not to amend these claims in independent form.

### IV. CONCLUSION


The Applicant believes the claims are in condition for allowance, and action towards that end is earnestly solicited.

If any matters may be resolved or clarified through a telephone interview, the Examiner is respectfully requested to contact the Applicants' undersigned attorney at the number shown.

Although no fees are believed due in connection with this amendment, the Commissioner is authorized to deduct any necessary fees (except for payment of the issue fee), from Jenkins & Gilchrist P.C. Deposit Account No. 10-0447, Order No. 47079-00262USPT.

Respectfully submitted,

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